

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 DIANN SOKOLOFF
Supervising Deputy Attorney General
4 State Bar No. 161082
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2212
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-237**

12 **TALUT MICHAEL LOWE**
2594 Sawgrass Lake Ct.
13 Cape Coral, FL 33909
14 **Registered Nurse License No. RN 664787**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about August 31, 2005, the Board of Registered Nursing issued Registered
22 Nurse License Number RN 664787 to Talut Michael Lowe (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought in this accusation
24 and will expire on December 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing, Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2644 of the Code provides, in pertinent part, that the expiration of a
6 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
7 against the licensee or to render a decision imposing discipline on the license. Under section
8 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
9 the expiration.

10 STATUTORY/REGULATORY PROVISIONS

11 6. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
13 within which the license may be renewed, restored, reissued or reinstated.

14 7. Section 2761 of the Code states:

15 "The board may take disciplinary action against a certified or licensed nurse or deny
16 an application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 ...

19 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be
21 conclusive evidence thereof."

22 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
23 revoke a license when it finds that the licensee has been convicted of a crime substantially related
24 to the qualifications, functions, or duties of a licensed registered nurse.

25 COST RECOVERY

26 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request
27 the administrative law judge to direct a licensee found to have committed a violation or
28

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 FIRST CAUSE OF DISCIPLINE
4 (Unprofessional Conduct)
(Bus. & Prof. Code § 2761(a))

5 10. Respondent has subjected his license to disciplinary action for unprofessional
6 conduct under Code section 2761(a) in that he was involved in a hit and run collision resulting in
7 major injuries to an innocent party. The circumstances are as follows.

8 11. On Sunday, September 14, 2008, the California Highway Patrol (CHP) responded
9 to a phone call reporting a traffic collision on I-80 eastbound on the San Francisco-Oakland Bay
10 Bridge (SFOBB). Respondent was driving a black Mercedes sports car eastbound on the bridge
11 at speeds of over 140 mph when he collided with a motorcyclist, causing the rider to be ejected
12 onto the roadway. (After stopping briefly, Respondent fled the scene of the collision.) Upon
13 their arrival to the scene, the officers identified Victim-1 lying in the number one lane of I-80
14 eastbound. Victim-1 sustained major bodily injuries and his vehicle was damaged badly. After
15 stopping briefly, Respondent fled the scene of the collision.

16 12. After the collision, the officers received a call from witnesses that Respondent and
17 his passenger had arrived at the SFOBB Toll Plaza. The officers immediately advised Oakland
18 CHP, Emeryville Police Department, Oakland Police Department, and Berkeley Police
19 Department to "be on the lookout" for a black Mercedes coupe. Very shortly thereafter,
20 witnesses called to say that a Mercedes coupe was seen at the Toll Plaza with its air bags
21 deployed and emitting smoke. The officers were notified by dispatch that the subject vehicle was
22 a 2007 black Mercedes two door, registered out of Cape Coral, Florida. The officers received
23 another call from dispatch that Respondent had dropped off his passenger (Freeman) in Berkeley.
24 The Berkeley Police detained Freeman until a CHP unit could respond to interview him.

25 13. The CHP officers interviewed Freeman who identified Respondent as the driver.
26 Freeman stated that he and Respondent had been to two clubs in San Francisco where they had
27 consumed alcoholic beverages. Freeman said that as Respondent was driving home on I-80
28 eastbound on the SFOBB, they collided with a motorcyclist. After colliding with the

1 motorcyclist, the Mercedes came to a stop. A witness approached the Mercedes car and asked if
2 they were okay, but Respondent drove away from the scene.

3 14. Respondent's vehicle was found abandoned in Berkeley. The Mercedes matched
4 the description given by witnesses at the scene of the collision. It had a Florida license plate
5 reading TAPA1, and it was registered to Respondent.

6 15. On September 15, 2008, Respondent called the San Francisco CHP office to say he
7 wanted to cooperate with the investigation. Respondent arrived at the San Francisco CHP office
8 with his lawyer. Respondent was identified by his Florida Driver's License and fingerprinted.
9 Respondent refused to answer any questions regarding the collision. The officers placed
10 Respondent under arrest and transported Respondent to the San Francisco County jail for
11 booking.

12 SECOND CAUSE FOR DISCIPLINE

13 (Conviction)

14 (Bus. & Prof. Code §2761(f))

15 16. Complainant realleges the allegations contained in paragraph 10 through 13 above,
16 and incorporates them by reference as if fully set forth.

17 17. Respondent has subjected his license to disciplinary action under Code sections
18 490 and 2761(f) in that on or about February 18, 2010, in a criminal proceeding entitled *People of*
19 *the State of California v. Talut M. Lowe*, in the San Francisco County Superior Court
20 Case No. 209993, Respondent was convicted by a plea of guilty of one count of violating Vehicle
21 Code section 20001(a) (leaving the scene of an accident), a felony. Respondent was sentenced to
22 one (1) year and four (4) months in state prison. In addition, Respondent had to pay court
23 restitution of \$260.00, and restitution to victim.

24 ///

25 ///

26 ///

27

28

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number RN 664787, issued to
5 Talut Michael Lowe;

6 2. Ordering Talut Michael Lowe to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 9/15/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

14 SF2010200826
15 90151629.doc
16
17
18
19
20
21
22
23
24
25
26
27
28